

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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LEROY BROWN,

Plaintiff,

v.

Civ. No.9:04-CV-1075  
(FJS/RFT)

K. LEE, Doctor at Clinton Correctional  
Facility; J. MITCHELL, Health Service  
Administrator at Clinton Correctional  
Facility,

Defendants.

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APPEARANCES:

OF COUNSEL:

LEROY BROWN  
Plaintiff, Pro Se  
875-06-02225  
R.N.D.C.  
11-11 Hazen Street  
East Elmhurst, New York 11370

HON. ANDREW M. CUOMO  
Attorney General of the  
State of New York  
Attorney for Defendant Lee  
New York State Department of Law  
The Capitol  
Albany, New York 12224

JANICE A. DEAN, ESQ.  
Asst. Attorney General

**FREDERICK J. SCULLIN, JR., S.D.J.:**

**DECISION AND ORDER**

The above-captioned matter having been presented to me by  
the Report-Recommendation and Order of Magistrate Judge Randolph

F. Treece filed February 7, 2007 and the Court having reviewed the Report-Recommendation and the entire file in this matter, and no objections to said Report-Recommendation having been filed, it is hereby

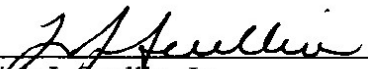
**ORDERED**, that the Report-Recommendation and Order of Magistrate Judge Randolph F. Treece filed February 7, 2007 is **ACCEPTED** in its entirety, for the reasons stated therein; and it is further

**ORDERED**, that Defendant's Motion to Dismiss pursuant to Fed. R.Civ.P.37(b) (Dkt. No. 28) is **GRANTED** and this action is **DISMISSED**; and it is further

**ORDERED**, that the Clerk of the Court is to enter judgment in favor of the Defendant and close this case.

**IT IS SO ORDERED.**

DATED: March 1, 2007  
Syracuse, New York

  
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Frederick J. Scullin, Jr.  
Senior United States District Court Judge